IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 34757 of 1998

Between:

Venkateswara Hatcheries Limited, rep. by General Manager,
Venkateswara House, 3-5-808 & 808/1, Hyderguda,
Hyderabad 500 029

..... PETITIONER

AND

1 The Presiding Officer, Labour Court-I,
Hyderabad.
2 Md. Mustafa, S/o Mr. Mohiuddin,
C/o Navodaya Public School, Srinivasanagar, Jagatgirigutta,

Hyderabad 500 037.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of Writ of Certiorari or any other appropriate writ after calling for the records in I.D.No. 153/95 quash the award and grant no relief to the respondent-workman and pass

Counsel for the Petitioner:MR.G.VIDYA SAGAR

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr.P.B.VIJAY KUMAR

The Court made the following :

ORDER:

This writ petition is filed by the Venkateswara Hatcheries Limited Management represented by its General Manager being aggrieved by the Award passed by the Labour Court-1, Hyderabad in I.D.No.153 of 1995 dated 8th July,1998.

It is the case of the petitioner-management that while the respondent No.2 - workman was serving with them, he was transferred to Pune by an order dated 17-2-1993, but did not report for duty at Pune. However, the petitioner applied for leave for 10 days.By letter dated 23-2-1993, petitioner was informed that he has already been relieved and therefore, he is no more on the rolls of Venkateswara Hatcheries Limited at Timmapur and he has to make an application for leave at Pune unit only. Subsequently, the petitioner was issued with notice dated 2-3-1993 to vacate the quarter which was allotted to him at Timmapur. However, the petitioner did not join

duty at Pune. Thereafter, he was issued proceedings 23-2-1993 and he was given final chance to report to duty on 27-2-1993, failing which, it will be presumed that he had voluntarily abandoned the service. Since the petitioner did not report for duty at Pune nor submitted any leave letters, ultimately the proceedings dated 6-5-1993 was issued stating that he deemed to have been abandoned the services voluntarily in accordance with the Model Standing Orders. Aggrieved by the said proceedings dated 6-5-993, the workman filed Writ Petition No.10307/93. After a lapse of two years, he has withdrawn the writ petition and approached the labour

court and filed an application under Section 2 (A) (2) of the Industrial Disputes Act on 12-9-1995. Before the labour court, the workman examined himself as WW.1 and also examined another witness and marked Exs.W.1 to W.8. On behalf of the management, the manager, Operations was examined as M.W.1 and Exs.M.1 to M.11 were marked. The labour court after a detailed consideration of the matter, however, felt that in the circumstances of the case, the question of abandonment of duty by the workman does not arise. Therefore, termination of his services treating a s deemed abandonment does not arise and as such directed the petitioner-management to reinstate the petitioner into service with continuity of service, full back wages and all other attendant benefits.

The learned counsel for the petitioner could not make out any ground, much less legal ground, to get over the finding of the labour court as to the illegal termination of the workman-respondent No.2.

It is true that the respondent filed a writ petition before this Court challenging the proceedings dated 6-5-1993 i.e. the writ petition No.10307/1993 and ultimately the same was withdrawn. Thereafter, respondent-workman filed claim petition only on 12-9-1995. Under those circumstances, even if the order of removal is illegal, granting of full wages in favour of the petitioner for the period he was out of service is not in consonance with discretionary powers vested in it under Section 11 A of the Industrial Disputes Act. Therefore, I am of the view that the Award passed by the labour court in I.D.No.153 of 1995 dated 8-7-1998 deserves to be modified. Accordingly the impugned award modified, to be read as under:

“The workman is entitled for reinstatement into service with continuity of service and all other attendant benefits but with only 50% back wages.”

The W.P. is disposed of with above modification. No order as to costs.

C.V.RAMULU,J

23-06-2005

Stp

To

1 The Presiding Officer, Labour Court-I,
Hyderabad.
2.Two CCs to G.P. for Labour, High Court Buildings, Hyderabad.(OUT).

3) 2 CD copies

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